

STATE OF SOUTH CAROLINA	)	BEFORE THE
COUNTY OF RICHLAND	)	CHIEF PROCUREMENT OFFICER
	)	
	)	CASE NO. 2010-125
PROTEST OF:	)	
	)	
Experience Works, Inc.	)	
	)	<b>ORDER APPROVING SETTLEMENT</b>
	)	
	)	
SC Lieutenant Governor's Office	)	POSTING DATE: September 28, 2010
RFP No. 5400001878	)	MAILING DATE: September 28, 2010
_____	)	

This matter is before the Chief Procurement Officer ("CPO") pursuant to a protest from Experience Works, Inc. ("Experience Works") under the provision of Section 11-35-4210(1)(b) of the South Carolina Consolidated Procurement Code ("Code"). In its protest letter filed August 6, 2010, Experience Works requested an administrative review of the Material Management Office's ("MMO") intent to award contracts to Goodwill Industries of Upstate ("Goodwill") for Region One and Region Four of the South Carolina Office of the Lieutenant Governor's ("OLG") Senior Community Employment Program.<sup>1</sup>

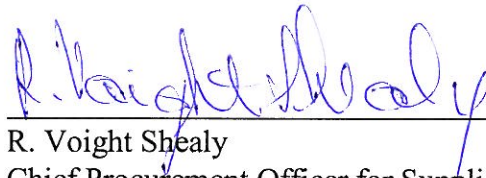
A hearing was scheduled for September 14, 2010. Sally Boofer was present on behalf of Experience Works. Christian Stegmaier, Esquire, represented Goodwill. In addition, John Stevens, State Procurement Officer, represented MMO, and Pam Grant appeared for the OLG. Pursuant to Section 11-35-4210(3), the CPO attempted to settle the protest by mutual agreement. Since a settlement appeared possible, the hearing was recessed for the protestant, the awarded vendor, MMO and the OLG ("the Parties") to discuss the matter. On that date, the Parties resolved the protest by mutual agreement. They have requested approval of their settlement agreement, which is attached as Exhibit "A".

## FINDINGS

Based on a review of facts and issues surrounding this protest, the CPO finds that the Parties had the opportunity to consult legal counsel and engaged in good faith, voluntary, and full discussions leading to a mutually agreeable settlement. It is the finding of the CPO that the agreement between the Parties is both a complete settlement of the dispute and an acceptable resolution of the protest. The CPO further finds that the agreement is in the best interests of the State.

## DECISION

Under the authority granted by Section 11-35-4210(3) of the Code, the CPO hereby approves the settlement agreement as set forth in Exhibit A. Based upon the Parties' agreement, the CPO also dismisses the request for administrative review.



R. Voight Shealy  
Chief Procurement Officer for Supplies and Services

September 28, 2010  
Columbia, South Carolina.

---

<sup>1</sup> No protest was filed regarding the remaining Regions Six, Seven and Eight.

**EXHIBIT A**

STATE OF SOUTH CAROLINA	)	BEFORE THE
COUNTY OF RICHLAND	)	CHIEF PROCUREMENT OFFICER
	)	
	)	CASE NO. 2010-125
PROTEST OF:	)	
	)	
Experience Works, Inc.	)	
	)	<b>SETTLEMENT AGREEMENT AND</b>
	)	<b>REQUEST FOR CPO APPROVAL</b>
SC Lieutenant Governor's Office	)	
RFP No. 5400001878	)	
_____	)	

By way of background, Experience Works, Inc. ("Experience Works") filed a protest with the Chief Procurement Officer ("CPO") under Section 11-35-4210(1)(b) of the South Carolina Consolidated Procurement Code ("Code"). In its protest letter, Experience Works requested an administrative review of the Material Management Office's ("MMO") intent to award contracts to Goodwill Industries of the Upstate ("Goodwill") for Region One and Region Four of the South Carolina Office of the Lieutenant Governor's ("OLG") Senior Community Employment Program.

At a hearing convened on September 14, 2010, Experience Works, Goodwill, MMO and the OLG ("the Parties") mutually agreed to settle the protest based on the terms below.

**SETTLEMENT AGREEMENT**

The Parties agree to settle the protest under the following terms and conditions:

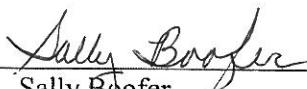
1. The intent to award contracts to Goodwill for Region One and Region Four of the Senior Community Employment Program will be canceled.
2. A re-solicitation of Region One and Region Four will be conducted in accordance with the Consolidated Procurement Code.
3. The evaluators participating in the original solicitation will not serve as evaluators in the re-solicitation process.

4. The price and/or budget evaluation criteria will be clarified in the re-solicitation process.
5. Experience Works withdraws its protest.
6. This agreement and any dispute, claim or controversy regarding this settlement agreement shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina. All disputes, claims or controversies regarding the agreement shall be resolved exclusively by the appropriate CPO in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only the Court of Common Pleas for, or a federal court located in Richland County, South Carolina. The parties agree that any act by the government regarding the agreement is not a waiver of either the government's sovereign immunity or the government's immunity under the Eleventh Amendment of the United States Constitution.
7. Each signatory below warrants and represents that he or she: 1) has read and understands this agreement; 2) has had the opportunity to seek the advice of legal counsel; and 3) is fully authorized to execute this agreement.
8. This represents the entire settlement agreement reached.
9. This settlement is contingent upon approval by the CPO pursuant to Section 11-35-4210(3) of the Code.

#### REQUEST FOR APPROVAL

Accordingly, the parties hereby request that the CPO approve the settlement based upon the authority provided by Section 11-35-4210(3) of the Code.


EXPERIENCE WORKS, INC.

By:   
Sally Boofer  
Its: Vice President of Operations <sup>SAB</sup>  
Director of Programs and Compliance

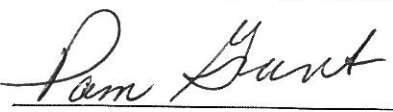
GOODWILL INDUSTRIES OF THE UPSTATE

By:   
Christian Steinhilber, Esquire  
Its: Counsel

MATERIALS MANAGEMENT OFFICE

By:   
John Stevens  
Its: State Procurement Officer

SC LIEUTENANT GOVERNOR'S OFFICE

By:   
Pam Grant  
Its: Program Manager  
Lt. Gov. Office on Aging